

A Farce to be Reckoned With

ON 15 OCTOBER 2011, thousands of people hurried to Martin Place, the epicentre of Sydney's bustling financial district.

But they had not come to work, nor to improve their share portfolios. They came to occupy Sydney.

They were a motley crew from across Sydney, some further, with diverse yet overlapping frustrations and experiences of the gross inequalities spawned by global capitalism.

Inspired and spurred by the occupations sweeping the globe, these 3000 assorted Sydneysiders came together to visibly and physically oppose this unequal system via the shared tactic of occupation.

From the outset, the policing of this political protest has been fierce and frenzied. Even on that first night, police seized blankets and camping equipment and whatever they could get their hands on.

Then at 5am on Sunday the 23 October, as 80 occupiers huddled in sleeping bags and makeshift shelters across the cold concrete that pervades Sydney's CDB, their revolutionary dreams came to an abrupt halt.

120 gun-clad riot police intruded upon the site, and forcefully and brutally dragged bodies and belongings away. Forty arrests were made for such dubious offences as staying overnight, an apparent violation of a council regulation.

Despite the bruises, many occupiers were undeterred, characterising this police intervention as unlawful and unjust; a tactic of intimidation.

So on 7 November 2011, 20 occupiers came again to Martin Place, rolled out their sleeping bags, and refused to leave. And, so they stayed, come rain, hail or shine. Literally. As many occupiers will attest, they have indeed experienced each of these weather patterns to the extreme.

The policing of Occupy Sydney has been constant and severe. In first 5 months



Police attend the Re-Occupation rally on 5 November. Photo by Katie Sheppard.

of Occupy Sydney, police came almost daily, using all the tools available to them – both legal and illegal – to shut down the protest. And, whilst there have been moments of reprieve, the over-policing of Occupy continues.

In total, 91 arrests have been made, and many more on-the-spot fines issued, for a variety of alleged crimes. The most amusing of these includes the offence of 'camping,' trespass (apparently the footpath under the awning of the RBA is enclosed land), and for "stealing" milk crates found discarded on the city's streets picked up by unsuspecting occupiers in want of a chair.

But whilst these offences occasionally make us smirk, the policing of Occupy does not.

The official approach to policing our protest has ostensibly been one of "shut it down at whatever cost," even if by unlawful and violent means.

The fact that all 19 contested cases resolved so far have resulted in withdrawn charges or a not-guilty verdict is testament to the outrageousness of the policing of Occupy Sydney.

But the impacts of each fine, arrest and charge have been substantial, causing harm to literally hundreds of people. Stories abound of cuts, bruises, harassment and trauma. So many of us have incurred great personal, emotional and financial cost, and this has certainly affected our ability to organise together.

Undoubtedly, the policing has also deterred many more people from being involved in Occupy.

Whilst we are not surprised that our protest – a fundamental challenge to the entrenched and powerful interests in this country – has been the subject of intense and coercive policing, we have been astounded by just how incessant and desperate these attempts have been to shut us down.

As the occupation continues, so does the policing. Our work is by no means done. We will continue to seek the support of broader progressive communities to stem the tide of fines, convictions and state violence, not just for Occupy Sydney but for everyone in this state.

Unlawful camping: oxymoron or plain moronic?

CAMPING, that favourite national pastime, is apparently a criminal offence in New South Wales.

The alleged offence that we have unaffectionately labelled “unlawful camping” is in fact a violation of a council notice under the Local Government Act (section 632 (1)), which creates the offence of “failing to comply with the terms of a notice erected by council”.

Sure enough, there are council signs in Martin Place prohibiting “camping or staying overnight”.

But apart from a ludicrousness of a police “crackdown” on camping – a crime so heinous that it apparently warranted the establishment of its own police operation (codename ‘Goulding’) – is it really possible to reduce our protest to a case of illegal camping?

Along with hundreds of thousands of people across the globe, we in Sydney rolled out our camping mats not for the sake of roasting a few marshmallows, but to Occupy. We sought, and continue to seek, to visibly confront corporate greed and global inequality.

The police deployed the moronic offence of “unlawful camping” in an attempt to shut down a political protest, despite



‘Tent monsters’ make an appearance at Downing Centre Local Court. Photo by Liam Kesteven.

the implied freedom of political communication in the Australian Constitution. This makes “unlawful camping” the primary “legal” weapon used by the police to intimidate and remove Occupiers.

To date, twenty people have received charges, and a further 36 have received penalty notices, related to their criminal camping, the most prevalent offence alleged against Sydney Occupiers.

11 charges of “unlawful camping” and 4 of “staying overnight” have so far been determined by the courts. In the first of these cases, the Magistrate agreed with the defence’s submission that there was no case to answer. The charges were dismissed, but the camping charges kept coming. To date, 6 of these charges have been dismissed by the court, 9 withdrawn by the police, and none proven.

“It’s the vibe of the thing” Occupy Sydney’s Constitutional Challenge

THE police arrests at Occupy Sydney have largely stemmed from the offence of “unlawful camping,” a violation of a council notice,¹ and the subsequent refusal of occupiers to “desist” from camping or from following the police’s orders.

Occupy Sydney maintains that these arrests and police directions are unconstitutional, and thus unlawful.

As Dennis Denuto submitted to the court to save his good friend Darryl Kerrigan’s house from government acquisition in *The Castle*, “It’s the vibe of the thing.”

Thankfully, we have a team of constitutional lawyers who have helped us develop a legal strategy with a bit more detail. Marsdens is instructing Stuart Littlemore QC in a case that will run over the next few months.

Our case hinges on the argument that the police arrests were contrary to the implied freedom of political communication in the Constitution.



Denis argues his case in The Castle

The High Court has said that this freedom arises from the text of the Constitution, which states that the Senate and House of Representatives will be “directly chosen by the people.” Because of this, the Court has said that political communication about “government or political matters” is necessary in order for people to make this choice.²

This “freedom” has limits and there is

uncertainty about its scope. But, if our argument is accepted and the enforcement of the council notice impinges upon this implied freedom, then the arrests and evictions that rest on this offence are unlawful.

One occupier, Eamonn, has agreed to be our legal guinea pig. His case will be run as a test case. 18 people have chosen to adjourn their matters until Eamonn’s case is heard.

If Eamonn’s case is successful, we will then have a basis or precedent to argue for the remaining cases to be dismissed.

At this stage, we are yet to receive a trial date. We are likely to get one at the next directions hearing on the 27 July, but only time will tell.

1. Specifically, a failure to comply with a council notice per s 632 (1) of the Local Government Act 1993 (NSW). The relevant council notice in Martin Place prohibits “camping or staying overnight.”

2. *Lange v ABC* (1997) 189 CLR 520.

OCCUPY THE COURTS!

OCCUPY SYDNEY

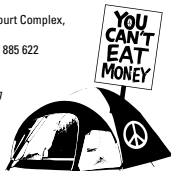
On 15th October 2011, thousands of people from across Sydney converged on Martin Place to challenge our current economic and political system and to build a movement for meaningful democracy and social justice. **And we're still here!**

Since the occupation began police have arrested 59 people in attempts to shut down the activities of Occupy Sydney. Many of these charges have come about because of police persecution, harassment and the use of force.

Come to court on Monday to show solidarity for 13 Occupy arrestees and to support the ongoing occupation!

When: 9am this Monday 5th December
Where: Meet outside Downing Centre Court Complex, Cnr of Elizabeth and Liverpool streets
Contact: Wenny 0402 564 862 / Josh 0408 885 622

Theme: Court Campout!
Bring your tents, barbecue tongs, folding chairs etc. to show your support for those facing ridiculous charges related to alleged camping. Yep, that favourite Australian pastime - and public protest - is apparently a crime.



MONDAY, 5th DECEMBER, 9am
We are unstoppable. Another world is possible!

OCCUPY SYDNEY 'CAMPING' SHOWDOWN

Along with many others, homeless man Lance Priestley faces multiple charges of 'camping' as a result of protesting with Occupy Sydney.

With assistance from high profile Barrister Peter Lavac, Lance will be seeking a legal definition of camping that protects his right to sleep in public without police harassment.

This case has implications for homeless, the public, and everyone involved in Occupy Sydney, so to show solidarity with Lance and to support the Occupy in general

WE NEED YOU THERE!



**NO JUSTICE NO PEACE
OCCUPY EVERYTHING**

**TUESDAY
JAN. 10
9:00AM**

**@DOWNING
CENTRE
LOCAL
COURT**

**CORNER OF
ELIZABETH &
LIVERPOOL ST**

Occupy Sydney presents AN OCCUPY THE COURTS EXTRAVAGANZA!

With 14 people appearing in relation to 17 matters this is set to be Occupy Sydney's biggest day in court so far!

While none of these matters will be resolved on this day this is a great opportunity to show your support and solidarity for those who have incurred charges in our struggle for change.



**NO JUSTICE
NO PEACE**

Featuring all your favourite legal riddles, including:
Camping, Without Camping Gear • Hinder & Assault Police (whilst being brutalised in the face!)
Malicious Chalking • Offensive Fuku Behaviour
Trespassing in Public • Failure to Comply with a Police Direction to Stop Protesting

**★ FRIDAY ★ Downing Centre
★ FEB 3 ★ Local Court ★
★ 9:00AM ★ Corner of Elizabeth St
★ and Liverpool St ★**

Flyers created for 3 of the more than 60 days that Occupiers have appeared in court. Big thanks to everyone who was able to attend in support!

Memorable moments in OSyd policing

Milk Crate Madness

In the first week of Occupy Sydney, 4 people wearing Occupy shirts were arrested on their way to Martin Place and charged on suspicion of having "stolen" milk crates from outside a café. On delivering his judgment not to record convictions for the guilty pleas, the Magistrate said the matter was "about as trivial as it could get", "almost an exercise in futility" and that he, too, "understands the struggle of finding seating in a metropolitan area".

Bail Blunder

Darren Bloomfield, a prominent Aboriginal sovereignty activist, was arrested for trespass whilst sheltering from the rain under the roof of the Reserve Bank. On the day of his hearing, police withdrew the matter and Aboriginal Legal Service was awarded costs for their wasted time and effort. On returning to the Occupy site to celebrate, Darren was arrested on suspicion

of breaching bail conditions not to be in Martin Place – conditions attached to the trespass charge that had been withdrawn that morning. When police realised their mistake, they charged Darren with illegal 'camping'. His charge was later dismissed by the court, joining 14 other 'camping' or 'staying overnight' charges that have been similarly dismissed or withdrawn by the police.

Operation Fail

Bob, a 66-year-old pensioner from the Central Coast, successfully defended himself on the alleged offence of 'staying overnight' at the Occupy site. Amongst other reasons, the Magistrate dismissed the charge on account of the police officers involved giving contradictory evidence. One of the police officers was Detective Sergeant Damian Loone – the officer in charge of the 'Operation Goulding' to police Occupy Sydney.

Occupy thanks our lawyers

WITH the frequently violent and unlawful policing of Occupy Sydney, our Legals Working Group has made numerous callouts for support from the Sydney legal community.

As a result many solicitors and barristers have donated their time and skills to provide Occupiers with legal advice and advocacy.

Their help has been instrumental in our fight to reduce or eliminate fines, criminal records, sentences, and restrictive bail conditions.

But the value of free and subsidised legal advice runs much deeper than these personal wins or "least worst" outcomes. Challenging the illegal policing of our protest has implications for all protests, and in fact, all people who are targeted by the police in this state.

As such, members of the Legal Working Group wish to acknowledge and express our appreciation for the support that we have received from concerned lawyers.

With the ongoing occupation, Federal Court case, and numerous unresolved matters still before the courts, our legal battles continue. If you are a lawyer who is interested in lending your support please make contact with us as your help is very much needed and appreciated.

OS Legal Support Contact:
legal@occupysydney.org.au

OS Legal Support facebook group:
<https://www.facebook.com/groups/343057322380372/>



Occupiers demonstrate in solidarity with the 'Milk Crates Four' outside Downing Centre Local Court. Photo by Scarlet Wilcock.

A SNAPSHOT OF OCCUPY SYDNEY POLICING

TO DATE THERE HAVE BEEN:

91 ARRESTS, resulting in

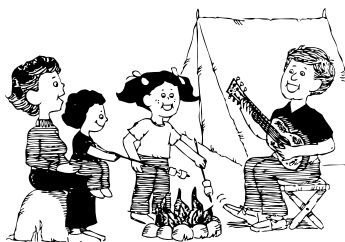
45 CHARGES,

20 FINES,

26 RELEASES

WITHOUT CHARGE

20 PEOPLE CHARGED AND 36 ISSUED WITH FINES FOR



"UNLAWFUL CAMPING"

10 PEOPLE CHARGED WITH 'TRESPASS', 



3 WHILE SHELTERING FROM RAIN IN MARTIN PLACE. 

9 PEOPLE HAVE BEEN GIVEN NON-CAMPING FINES, 45 PEOPLE IN TOTAL HAVE RECEIVED FINES

2 CHARGES RELATED TO GRAFFITI

4 PEOPLE CHARGED WITH ASSAULT POLICE,



3 FOR RESIST POLICE,
2 FOR HINDER POLICE,



3 FOR FAILURE TO COMPLY WITH A POLICE DIRECTION

2 CHARGES OF PUBLIC MISCHIEF.

WHY SO SERIOUS?

BOTH DISMISSED.

100% OF 19 CONTESTED & FINALISED MATTERS
WITHDRAWN OR FOUND
NOT GUILTY!

Occupy Sydney Legal Tribune was written, edited and designed by Matthew Kiem, Wenny Theresia, and Scarlet Wilcock with support from other Occupy Sydney participants.

UPCOMING COURT DATES

Thursday 28th June 9.30am, Downing Centre:
Hearing for Matt's RBA trespass charge continues

Thursday 19th July 9.30am, Downing Centre:
Hearing for Lily's 'staying overnight' charge continues
9.30am, Federal Court:
Directions hearing for the Federal Court case

Friday 27th July 9.30am, Downing Centre:
Mentions for 18 people (matters being adjourned until after Federal Court case)

ENCLOSED LANDS PROTECTION ACT 1901 SECTION 7



(1) Any owner, occupier, or person in charge of inclosed land may DESTROY any goat found trespassing thereon.

This is the LAW



Glenn's List of 'Lost' (Seized) Items

- 3 sleeping bags
- 4 doonas
- 4 air mattresses
- 3 Occupy Sydney banners
- 2 backpacks
- A large amount of food stock
- 2 water bottles
- A megaphone
- Numerous hand written posters
- 3 donation boxes
- Police integrity

! Missing !

~feared destroyed~

The People's Library

Last seen being loaded into white vans by armed persons in blue uniform.

Over 100 books on empowerment to support individuals seeking to create solutions for participatory transformative community

www.occupysydney.org.au